

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NORTH DAKOTA
SOUTHEASTERN DIVISION

Brian D. Iverson,

Plaintiff,

-vs-

Michael J. Astrue, Commissioner of Social
Security Administration,

Defendant.

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Case No. 3:08-cv-128

**ORDER ADOPTING REPORT AND
RECOMMENDATION**

Plaintiff appeals from an unfavorable decision of Administrative Law Judge Lyle Olson. The Court has received a Report and Recommendation from the Honorable Karen K. Klein, United States Magistrate Judge, pursuant to 28 U.S.C. § 636, recommending that Plaintiff's Motion for "Sentence Four" Reversal and Remand be denied; that Plaintiff's Motion for Summary Judgment be granted; that the Commissioner's Motion for Summary Judgment be denied; and that the claim be remanded to the Commissioner for an award of benefits for the claimed closed period of disability. Neither party filed objections to the Report and Recommendation within the time prescribed by Fed.R.Civ.P. 72(b) and Local Rule 72.1(D)(3).

After carefully reviewing the Report and Recommendation, along with the entire file, the Court agrees with the Magistrate Judge's analysis. Accordingly, the Court hereby adopts the Report and Recommendation in its entirety. For the reasons set forth therein, Plaintiff's Motion for Remand (Doc. #9) is **DENIED**; Plaintiff's Motion for Summary Judgment (Doc. #18) is **GRANTED**; the Commissioner's Motion for Summary Judgment (Doc. #23) is **DENIED**; and the Commissioner's decision is **REMANDED WITH DIRECTIONS** to award Plaintiff benefits

for the claimed closed period of February 5, 2005, to the effective date of the Commissioner's favorable decision on the second application for benefits.

IT IS SO ORDERED.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this 22nd day of March, 2010.

/s/ Ralph R. Erickson
Ralph R. Erickson, Chief Judge
United States District Court